

**PRE-APPEAL BRIEF REQUEST FOR
REVIEW**

Docket Number 042933 / 269772

(filed with the Notice of Appeal)

Application Number: 10/715,095

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First Named Inventor: Oksanaen, Olli

Art Unit: 2173

Examiner: Shrestha, Kiran K.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

Respectfully submitted,



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Attachment
Reasons for Requesting Pre-Appeal Brief Request for Review

I. Claims 1, 3-5, 7-25, 27, and 29 Are Not Anticipated by Yang

Claims 1, 3-5, 7-25, 27, and 29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,301,586 to Yang (“the Yang patent”). Applicant respectfully submits that the interpretation of the disclosure of the Yang patent and the corresponding application of the Yang patent to the pending claims are inaccurate and incomplete. As such, Applicant respectfully submits that the final Office Action and Advisory Action fail to establish a *prima facie* case for anticipation, including failing to establish that each and every element of the pending claims are disclosed by the Yang patent. As provided in MPEP § 2131, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicant submits that the Office Action does not provide a reasonable basis for how each and every element as set forth in the claims is expressly or inherently described in the Yang patent. MPEP § 2131 also expresses that “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicant submits that the identical inventions that are claimed in the present application are not disclosed in the Yang patent, nor does the Yang patent teach a like invention disclosed in as complete detail as recited in the claims.

A. Yang Does Not Teach or Suggest Automatically Altering the Speed of the Browsing

A primary discrepancy appears to be claim language related to automatically altering the browse speed of the view compared to the Yang patent disclosing manual starting and stopping a slide show feature characterized as an automatic viewer mode, but that only facilitates a constant view speed (i.e., “certain time intervals”). Independent Claim 1 recites “to **automatically alter the speed of the browsing** using the media handle when a media file having the chosen browse parameter is approached or in the media view.” Independent Claim 22 recites “to **automatically alter the speed of the browsing** when the processing unit determines that a media file is approaching or currently in the media view.” And independent Claim 24 recites “**automatically altering the browse speed** when a desired media file is approached or within the media view.”

The final Office Action and Advisory Action state that the Yang patent teaches “automatically *start* showing the images one by one *at certain time intervals* with some smooth transition between the two images” (emphasis added). But Applicant notes that the Yang patent only describes browsing that is manually started (or manually stopped) and only describes browsing that involves a viewer mode that provides for browsing at “certain time intervals.” Nothing in the Yang patent discloses or teaches that the

speed of the browsing is automatically altered. The full disclosure of the Yang patent states that “the viewer mode will automatically start showing the images one by one at certain time intervals,” but explains that a user “can start the slide show using AUTOPLAY button,” which starts the browsing. The viewer mode does not automatically start without manual interaction, although this would still not disclose automatically altering speed of browsing, merely automatically starting browsing. More specifically, the viewer mode may automatically browse multiple images, but does not automatically *alter* the speed of the browsing. The speed of browsing in the Yang patent is constant at “certain time interval,” such as may be a default speed or manually predetermined by a user. But nothing in the Yang patent discloses *automatically altering* the speed of the browsing.

The pending claims do *not* recite manually starting an automatic browse mode, as suggested by the Yang patent and rely upon in the final Office Action, so this is not the appropriate inquiry. And Applicant submits that manually starting a constant-speed automated browsing mode is not the same as, and does not teach, automatically altering the speed of browsing. The two concepts are not the same, nor related in such a way that automatically altering the speed of browsing is suggested by manually starting browsing or automatically browsing multiple images at a constant browse speed according to a certain time interval. And the Yang patent merely discloses that browsing can be automatically advanced from one image to another image at a certain time interval, as recited at “some predefined and user configurable time period.” See col. 23, ll. 26-17 (*noting* that the predefined and user configurable time period is expressed in the singular, *i.e.*, time period, rather than time periods). Neither of these disclosed functions teaches or suggests automatically altering the browse speed of the view, as recited by independent Claims 1, 22, or 24. Remarkably, the Advisory Action adds the explanation that “automatically start showing the images one by one at certain time intervals... is substantially similar to faster or slower speed.” Applicant believes that this assertion is inaccurate and reflects in part how the final Office Action fails to present a *prima facie* case for anticipation. Similarly, the text cited in the final Office Action with respect to the corresponding recited limitations of Claims 22 and 24 (column 21, lines 48-65) merely states that “users can scroll up and down or left to right to view more records or fields” as is commonly know for a spreadsheet view, but does not disclose or suggest anything related to automatically altering the speed of browsing, nor a reason for doing so.

Applicant notes that the cited text of the Yang patent states “certain time intervals” in plural. But Applicant submits that this does not disclose or suggest that the browse speed would be automatically changed, but merely suggests that more than one browse speed may be implemented, presumably by manually changing a default browse speed or other previously predefined browse speed to establish a new manual predefined browse speed, for the automated viewer mode, but this is not described in more detail in the Yang patent, and not described as occurring automatically.

B. Yang Does Not Teach or Suggest Automatically Altering the Speed of the Browsing “When a Media File Having the Chosen Browse Parameter is Approached or in the Media View,” “When the Processing Unit Determines that a Media File is Approaching or Currently in the Media View,” or “When a Desired Media File is Approached or Within the Media View”

Claims 1, 22, and 24 do not merely recite automatically altering the speed of browsing, but also recite when and how the speed of browsing is automatically altered. The Yang patent states “the viewer mode will automatically starting showing the images one by one.” But Applicant submits that this disclosure does not teach or suggest that, once started, the browse speed of the viewer mode may be automatically altered. Nothing in the Yang patent discloses or suggests any reason why or function how the browse speed might be automatically altered as recited in independent Claims 1, 22, or 24. And nothing in the final Office Action or Advisory Action explains any reasonable basis for how the Yang patent teaches or suggests when the browse speed of the viewer mode might be automatically altered, as recited in independent Claims 1, 22, and 24. For example, there is no teaching or suggestion in the Yang patent that the speed of the slide show is changed “when a desired media file is approached or is within the media view.” Both browsing methods disclosed in the Yang patent require that the user starts the browsing and that the user may control the browse speed by a user configurable time period, and thus the Yang patent does not disclose that the system may, for example, “automatically alter the speed of the browsing when ... a media file is approaching or currently in the media view.” The present application, however, discloses and claims that the browsing speed may be adjusted depending on the presence of a media file type that is approaching or will be approaching in the media view of the system. Accordingly, as disclosed in the instant specification, the invention may browse quickly between files but slow down the speed of browsing when a relevant file type is approaching the display window (*see e.g.*, page 19, ll. 14–23). The Yang patent is silent with regard to such novel aspects and does not anticipate the invention as claimed.

C. Yang Does Not Teach or Suggest “a Media Handle” or that Automatically Altering the Speed of the Browsing is Performed “Using the Media Handle.”

Further, with respect to the media handle and use thereof as recited in Claim 1, Applicant notes that the final Office Action cites to column 23, lines 12-35 and the Advisory Action further explains that a user “can stop at a certain image by pressing STOP button and then can start the slide show using AUTOPLAY button (which is substantially similar to media handle; column 23, lines 12-19).” Applicant respectfully submits that the Yang patent merely discloses a start button (AUTOPLAY button) and a stop button. Nothing in the Yang patent discloses a feature, such as a media handle, that would initiate or control “automatically altering the speed of browsing.” Applicant reiterates that “[a] claim is anticipated

only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicant submits that neither the final Office Action nor the Advisory Action provides a reasonable basis for how a media handle that is used to automatically alter the speed of browsing as set forth in Claim 1 is expressly or inherently described in the Yang patent. The final Office Action merely cites to column 23, lines 12-35, and the Advisory Action merely describes the functionality of the start and stop buttons. Nothing is presented regarding a media handle to automatically alter the speed of browsing.

D. Yang Does Not Teach or Suggest Automatically Altering the Speed of the Browsing by “Decreasing the Speed of Browsing in Relation to the Distance of the Approaching Media File and Extent of a Deviation of the Media Handle from a Centerline Position”

Further, with respect to Claim 7, and similar to the remarks presented above, nothing in the Yang patent discloses or suggests “decreasing the speed of browsing in relation to the distance of the approaching media file and extent of a deviation of the media handle from a centerline position.” As noted above, nothing in the Yang patent discloses or suggests any type of automatic altering of a browse speed, nor present any reason why or function how the browse speed might be automatically altered. The citations to the Yang patent (Fig. 11) merely show a user interface for a web browser, but nothing is shown or described with respect to Figure 11 related to automatically altering the browse speed. As such, the further limitations of Claim 7 are also not disclosed or suggested by the Yang patent.

E. Yang Does Not Teach or Suggest Automatically Altering the Speed of the Browsing by “Increasing the Speed of the Browsing When a Media File, in Accordance with the Chosen Browse Parameter, Bypasses a Centerline Position of a View Generated by the Computer Program Product”

Further, with respect to Claim 8, and similar to the remarks presented above, nothing in the Yang patent discloses or suggests “increasing the speed of the browsing when a media file, in accordance with the chosen browse parameter, bypasses a centerline position of a view generated by the computer program product.” As noted above, nothing in the Yang patent discloses or suggests any type of automatic altering of a browse speed, nor present any reason why or function how the browse speed might be automatically altered. The citations to the Yang patent (Fig. 10 and column 19, lines 54-62) merely discloses whether a picture, data, or picture and data might be displayed, but nothing is shown or described with respect to automatically altering the browse speed. As such, the further limitations of Claim 8 are also not disclosed or suggested by the Yang patent.

Accordingly, for at least the reasons stated above, Applicant respectfully submits that the § 102(b) rejections of Claims 1, 3-5, 7-25, 27, and 29 should be reversed.